IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 24939 of 2004

Between:

1 MOhd. Abdul Akbar Ghori, S/o. MOhd. Subham Ghori,
R/o. H.No.20-7-487, Taleem Mallad, Fathedarwaja, Hyderabad.
2 MOhd. Omer Ghori, S/o. MOhd. Subham Ghori,
H.No. 20-7-487, Taleem Mallad, Fathedarwaja, Hyderabad.

..... PETITIONERS

AND

1 The Station House Officer, Hussaini Alam Police Station, Hyderabad.
2 The Commissioner of Police, Hyderabad City, Basheerbagh,

Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ or order or direction more particularly one in the nature of writ of mandamus declaring the action of the 1st respondent in seizing and keeping the Bajaj Chetak Scooter bearing No. A.P.12-B-3772, Hero Honda Splendor bearing No. A.P.09S-9400 two cell phones, documents and cash of Rs. 12,000/- in his custody since from 12.11.2003 as bad, arbitrary, illegal and without jurisdiction and consequently direct the respondents to return the said vehicles, cell phones documents and cash Rs. 12,000/- to us forthwith and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.C.DAMODHAR REDDY

Counsel for the Respondents No. 1 and 2: GP FOR HOME

The Court at the stage of admission made the following ORDER:

The petitioners allege that the first respondent seized their vehicles bearing No. AP 12B 3772 (Bajaj Chetak scooter) and AP 09S 9400 (Hero Honda Splendar), two cell phones, documents and cash of Rs.12,000/- on 12.11.2003 and have not released the same so far. They allege that they are not involved in any crimes and the action of the respondents in seizing and withholding the said items is illegal and arbitrary and they seek directions for release of the same.

The first respondent filed a counter-affidavit. It is stated that the two vehicles referred to above were used by A1 and A2, in Crime No.179 of 2003, who fired at one Mr. Massod with a revolver and fled away. The allegation of the petitioners that the cell phones, documents and cash of Rs.12,000/- were seized is flatly denied. The charge sheet in Crime No.179 of 2003 is said to have been filed in the Court of the II Metropolitan Magistrate, Hyderabad to the effect that the accused therein have committed the offence under Section 307 read with 34 IP.C. The vehicles are said to have been produced before the trial Court along with the charge sheet.

Heard the learned counsel for the petitioners and the learned Government Pleader for Home.

While the petitioners allege that the two vehicles referred to above, cell phones and cash were seized by the first respondent, the latter states that it is only the two vehicles that were seized on account of their having been used by the accused in committing the crime and not the other items. This Court cannot record any findings on such disputed questions of fact. Inasmuch as it is stated that the seized vehicles are produced before the Court of the II Metropolitan Magistrate, Hyderabad, it shall be open to the petitioners to seek release of the same, duly satisfying the trial Court as to their entitlement as well as their right.

The writ petition is accordingly disposed of. There shall be no order as to costs.

07.02.2005

ksld

To

1 The Station House Officer, Hussaini Alam Police Station, Hyderabad.
2 The Commissioner of Police, Hyderabad City, Basheerbagh,

Hyderabad.

3 Two CCs. to the G.P. for Home, High Court of A.P., Hydeabad

(OUT).

4 Two CD copies.